

**BEFORE THE HORSE RACING BOARD
STATE OF CALIFORNIA**

In the Matter of:
Fitness for Licensure

HECTOR ROMERO
CHRB License # 273327
Applicant

Case No. SAC 08-0029

**ORDER FOLOWING
RECONSIDERATION OF DECISION
ADOPTING PROPOSED DECISION
WITH CLARIFICATION OF
PROPOSED SANCTION**

The California Horse Racing Board having reconsidered its Decision Adopting Proposed Decision with Clarification of Proposed Sanction (Government Code Section 11517), so ordered on August 19, 2008, issues the following Order:

(1) Applicant Hector Romero is hereby eligible to apply for a conditional jockey license subject to the following terms and conditions:

- (a) Applicant Hector Romero shall enter an agreement entitled "AGREEMENT FOR WINNERS FOUNDATION PROGRAM," referenced as "Created by ypina 1/0/07," with the Winners Foundation and shall abide by all conditions set forth therein.
- (b) The Winners Foundation agreement shall be for a period of not less than two (2) years, and shall further provide Applicant Hector Romero must attend a minimum of four (4) 12 Step recovery meetings per week, either with the Winners Foundation or other 12 Step drug or alcohol recovery programs.
- (c) The Winners Foundation shall submit written confirmation to the California Horse Racing Board that Applicant Hector Romero has entered such an agreement.
- (d) Applicant Hector Romero agrees to submit to urine/breath testing at the discretion of a member of a Board of Stewards and/or the Enforcement staff of the California Horse Racing Board.
- (e) Applicant Hector Romero shall abide by all terms and conditions of his court ordered probation.
- (f) If Applicant Hector Romero fails to abide by any of the terms and conditions set forth above, the conditional jockey license shall be immediately suspended.

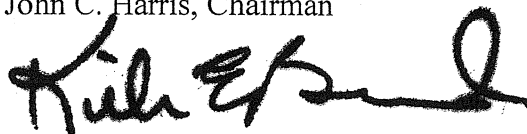
(2) The conditional jockey license shall be valid for a period of two (2) years from the date of this Order.

(3) At the conclusion of the two (2) year conditional jockey license time period, if Applicant Hector Romero is not in violation of any of the terms and conditions thereof, Applicant Hector Romero may apply for a jockey license.

IT IS SO ORDERED ON June 11, 2009.

CALIFORNIA HORSE RACING BOARD

John C. Harris, Chairman



By: Kirk E. Breed
Executive Director

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:

FITNESS FOR LICENSURE

HECTOR ROMERO
Applicant

Case No. SAC 08-0029

**DECISION ADOPTING PROPOSED DECISION
WITH CLARIFICATION OF PROPOSED SANCTION
(Gov. Code, Section 11517)**

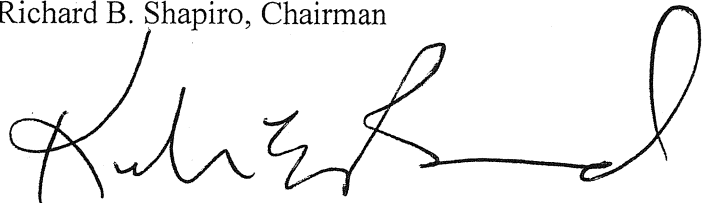
Attached is a copy of the Proposed Decision in the above-titled matter submitted to the California Horse Racing Board ("Board") under provisions of Government Code section 11517. You are advised that the Board considered the proposed decision at its August 19, 2008, meeting and ordered that the applicant is eligible to apply for a one year conditional license as an exercise rider. At the conclusion of one year the applicant would be eligible to apply for a jockey license **provided** that he has not violated the terms of the conditional exercise rider license and one (1) year after satisfactorily completing his court ordered probation. As so modified, the Board adopts the Proposed Decision.

This Decision shall become effective on August 29, 2008.

IT IS SO ORDERED ON August 19, 2008.

BY ORDER OF THE CALIFORNIA HORSE
RACING BOARD

Richard B. Shapiro, Chairman

A handwritten signature in black ink, appearing to read 'Kirk E. Breed', written in a cursive style.

Kirk E. Breed
Executive Director

**BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA**

In the Matter of:)	
)	
FITNESS FOR LICENSURE)	Case No. SAC 08-0029
)	
HECTOR ROMERO)	
Applicant)	

PROPOSED DECISION

This matter came for hearing in the offices of the California Horse Racing Board at the Solano County Fair, Vallejo, California on July 18, 2008. Steward John Herbuveaux acted as Referee for the California Horse Racing Board (Board) pursuant to Section 1414, Title 4, California Code of Regulations.

Applicant Hector Romero (Romero) appeared and was not otherwise represented by Counsel. Romero called four witnesses who testified on his behalf.

Supervising Investigator Anne Glasscock (Glasscock) appeared and presented evidence on behalf of the Board.

At the hearing the parties were afforded the opportunity for examination and cross examination of witnesses, for the introduction of relevant exhibits and for argument. Upon receipt of the testimonial and documentary evidence the record was closed and the matter deemed submitted.

BACKGROUND

Hector Romero was licensed as an Apprentice Jockey by the Board from January 30, 2002 until his license expired on July 31, 2007. On June 14, 2008 Romero applied to the Board for a renewal of his jockey license. On the application he submitted Romero answered yes to the question, "Have you been convicted of ANY public (criminal) offense within the last 36 months?"

Romero, along with the license application form, submitted a pink form requesting his Criminal History information. On that form Romero listed three convictions in Riverside County from November 17, 2004 through August 17, 2006.

Upon receipt of the license application and Criminal History Information card on June 14, 2008, Glasscock issued Romero a Notice of Refusal of License on behalf of the Board.

On the license refusal notice Glasscock checked the following four boxes as reasons for refusing Romero's license application:

1)...You have been convicted of a crime punishable by imprisonment in the State or Federal prison, or have been convicted of a crime involving moral turpitude.

2)...You are unqualified to engage in the occupation for which you have applied. You have failed to meet the following requirements or qualifications:

"Currently on Felony drug conviction parole; Multiple DUI convictions; current Misdemeanor probation; current CHRB suspension."

3)...You have committed an act involving moral turpitude, or have committed intemperate acts which have exposed others to danger, or have committed acts in connection with horse racing and/or a legalized gaming business which were fraudulent or in violation of trust or duty.

4)...You have unlawfully engaged in or have been convicted of possession, use or sale of a narcotic, dangerous drug, or marijuana.

On June 14, 2008 Romero timely appealed the refusal of license. The matter was referred to the Board's office in Sacramento where today's hearing was scheduled on Romero's appeal.

FINDINGS OF FACT

I

Glasscock read into the record the convictions Romero has accumulated during the last four years.

II

Those convictions are:

- 2004
- 1) Possession of Methamphetamine (Felony)
 - 2) Being under the influence of a controlled substance (Misdemeanor)
 - 3) Driving a motor vehicle under the influence of drugs with prior conviction (Misdemeanor)
 - 4) Driving while on a suspended or revoked license (Misdemeanor)

- 2005
- 1) Possession of Methamphetamine for sale (Felony)
 - 2) Furnishing and transportation of Methamphetamine for sale (Felony)
 - 3) Using false identification (Misdemeanor)
 - 4) Violation of probation

- 2006
- 1) Manufacturing Methamphetamine (Felony)
 - 2) Possession of a firearm (Felony)
 - 3) Furnishing or transportation for sale of Methamphetamine (Felony)
 - 4) Possession of Methamphetamine for sale (Felony)
 - 5) Possession of Methamphetamine while in possession of a loaded firearm (Felony)
 - 6) Manufacture or possession of a firearm (Felony)

III

Romero did not dispute the convictions listed by Glasscock.

IV

For the above listed violations Romero was eventually sentenced to 365 days in jail and placed on formal probation for three (3) years.

V

Romero stated that, with time off for good behavior, he served eight (8) months in jail.

VI

Romero was released from jail in June of 2007.

VII

Glasscock and Romero stipulated that the end of Romero's formal probation is September 10, 2009.

VIII

Glasscock stated that the current guidelines employed by the Board with respect to license applicants with felony drug convictions are contained in a Board directive dated January 13, 1999. (Exhibit 3)

IX

That directive states in part:

"...Effective immediately, in determining what length of time must pass since a criminal sentence has been completed before an investigator has the discretion and

authority to routinely approve the issuance of a license, the following criteria shall be used:"

"Felony Drug Convictions – The licensing application must be reviewed and approved by a CHRB Supervising Investigator after ONE (1) year of completion of the term, including parole and probation. Any appeal of such refusal MUST be referred to the Director and/or his designee."

X

Glasscock stated that according to the 1999 directive Romero's record of convictions precluded the acceptance of his license application until his probation had been completed which would not be until September 10, 2009.

XI

Glasscock refused Romero's license application on June 14, 2008.

XII

Glasscock stated that Romero has a history of drug problems and is required to register as a drug offender by the State of California.

XIII

Romero stated that he has made mistakes in the past and served time in jail but he would like one more chance to ply his trade as a jockey licensed by the California Horse Racing Board.

XIV

Romero related that he was born and raised in Los Angeles and in that environment was exposed to culture of drugs and crime at an early age.

XV

He was heading for involvement in that subculture when his father, who exercised horses at race tracks in southern California, taught him the trade.

XVI

In July of 2001 Romero applied for and received an exercise rider's license from the Board. He worked for various trainers at race tracks in both southern and northern California.

XVII

In January of 2002 Romero applied for and received an Apprentice Jockey's license from the Board.

XVIII

For 2002 and 2003 Romero's license history with the Board shows that he received minor penalties from the stewards for routine riding infractions.

XIX

Romero testified that in 2003, at the State Fair in Sacramento, he won the Governor's Handicap, a very prestigious race, and that his career was starting to take off. The next day he was involved in a spill and received injuries that doctors diagnosed early on as career ending.

XX

Romero stated that while some doctors feared he might be paralyzed for life he returned to riding in the spring of 2004 after 9 months of rehabilitation. His career stalled however because, according to Romero, many trainers thought he was "riding scared" i.e. afraid to ride aggressively because of the earlier accident.

XXI

With his career slowing and money troubles mounting Romero traveled back to southern California and drifted into a life of drugs and crime as a way to support himself.

XXII

Romero's criminal behavior led to the convictions, jail time and formal probation referenced above.

XXIII

In June of 2007 Romero was released from jail and soon thereafter moved to northern California to try and resume his riding career. Romero did not realize his criminal history would prevent him from regaining his license privileges with the Board.

XXIV

In June of 2007 Romero began exercising horses off the race track at local farms and, as he stated, began to change his behavior in order to get his jockey license back.

XXV

Romero testified that while in jail he realized that he was happiest when riding horses and that drugs and crime were not part of the life he wanted to lead.

XXVI

Romero produced four witnesses, Gustavo Ponce, Ellen Jackson, Cheryl Van Sandt and Monica Jordan who testified to Romero's behavior since June of 2007.

XXVII

Ponce is a landlord of a fourplex where Romero lived for seven months and Jackson Van Sandt and Jordan operate training facilities where Romero has been exercising horses since June of 2007.

XXVIII

All testified that Romero is an exceptional person and were very surprised to learn of his criminal record because that is not the type of person whom they have observed this past year.

XXIX

Ponce stated that Romero always paid his rent on time or even early. Once when Ponce was injured Romero tended to the fourplex, making repairs and handling chores even though Romero did not receive compensation or reduced rent.

XXX

Jackson, Van Sandt and Jordan testified that Romero has been exercising horses at their respective facilities and that he has a natural ability with horses. He has shown up every day, without fail and has even spent time teaching young children the art of riding horses.

XXXI

Jackson stated that Romero has worked out so well she has allowed him to live in a cottage at her farm the last five months. She said that he works her horses in the morning and then exercises horses for Van Sandt and Jordan later in the day.

XXXII

Romero submitted a petition with sixty-one signatures from members of the racing community including owners, trainers, breeders, jockeys, exercise riders, and grooms supporting Romero in his efforts to have his license privileges reinstated. These signatures were gathered in 2007. (Exhibit 2)

XXXIII

Romero submitted ten recent (2008) letters of recommendation from members of the racing community, including the four witnesses who testified on his behalf, along with his probation officer. Each supported Romero's efforts to have his license privileges reinstated. (Exhibit 2)

XXXIV

Romero submitted documents that he has participated in a program sponsored by Anka Behavioral Health, Inc., completed a ten week Parent Education class sponsored West Contra Costa Unified School District/Adult Education and, as required by the terms of his probation, is currently enrolled in an 18 month DMV second offender program. (Exhibit 7)

XXXV

Romero also submitted documents which, he contends, show he regained the ability to share custody of his young child. (Exhibit 7)

XXXVI

In closing statements Glasscock offered that a jockey's license is a privilege not a right, that the Board is charged with insuring the integrity of horse racing and that such integrity could be compromised by the issuance of license to someone with a criminal record as lengthy as Romero's. Glasscock also stated that insufficient time has passed for Romero to show a dedicated history of compliance with the terms of probation and abstinence from the drugs which were an integral part of his criminal behavior.

XXXVII

In his closing remarks Romero testified that he only wants a chance to show that he is committed to turning his life around. He stated that he would accept a conditional license and complete any requirements the Board deems necessary in order for him to demonstrate that his past mistakes would not be repeated. Romero volunteered that he would submit to any type of testing program the Board required to verify he is drug free and that would work with the Winners Foundation to monitor his compliance in remaining clean and sober.

DISCUSSION

On its face Romero's criminal history beginning in 2004 would and should be sufficient to preclude him from involvement in any regulated industry which relies on trust and integrity as its core values. Horse racing is such an industry. A lack of trust by the public in the integrity of horse racing would relegate the sport to that category shared by professional wrestling and roller skating.

The rules of the California Horse Racing Board attempt to prevent participation by people with a record like Hector Romero's because a history of criminal activity casts a cloud and serves to undermine the integrity of the entire sport. This does not mean that no one in the racing industry has ever spent time in jail but rather it reflects that racing and its regulators take seriously the responsibility to keep the industry and its image free from negative speculation.

Board rule #1489 (Grounds for Denial or Refusal of License) contains ten paragraphs enumerating why applicants could be denied or refused a license. Romero's refusal encompassed four of those categories. The reasons are based on events which occurred, in the majority of cases, less than three years ago.

Romero wishes to return as a jockey, a position with a very high level of visibility with the public. For someone who is just a little more than a year removed from imprisonment for drug convictions this is a lofty aspiration. What type of message would Romero's licensure send to the wagering public concerning the Board's duty to ensure the integrity of racing?

In presenting his arguments for consideration Romero demonstrated through witnesses that since June of 2007, when he was released from jail, he has had steady and gainful employment, paid his rent on time, made timely payments towards restitution and earned the respect of his employers. The signatures on the petition signed by backstretch personnel were gathered shortly after his release but show that his supporters in the barn area believe racing would not suffer negative consequences if his license privileges were restored.

The letter of recommendation from his probation officer showed that Romero is on the right track in putting his life back in order. Since this praise come from someone considered a hard sell it carries considerable weight.

Romero also entered into evidence unsubstantiated documentation that he has attended and/or completed some classes or programs relating to behavioral health, parenting and court ordered DMV/DUI counseling. Such participation is admirable but does not carry the imprimatur of a government agency or a recognized organization that Romero is making strides to distance himself from his recent past.

In testimony Romero stated that other jockeys in recent years that have gone through bouts of drug abuse and/or served time in jail and yet have retained their license privileges or have received conditional licenses. Such testimony rings true but whether the circumstances relating to those other individuals were comparable to Romero's history was not presented for consideration.

Romero stated in his closing that if he were to receive a license he would agree to be tested for drugs and/or alcohol at anytime by the Board. He also stated that he would submit to an evaluation by the Winners Foundation and enroll in any program that organization deemed appropriate for him. This seems to be a good basis for the possible restoration of Romero's jockey's license.

Testimony and evidence presented at the hearing prove that Romero has made tremendous strides in the past thirteen months toward turning his life around and his progress to this point should be applauded. To grant Romero a jockey's license at this time however would not be in racing's best interest. He has not had sufficient time nor has he been subjected to the structured environment necessary to demonstrate that his past mistakes would not be repeated.

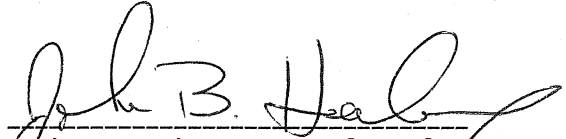
If, however, Romero were to return to the race track under a conditional license as an exercise rider, his previous profession, he could then earn a living, be objectively observed by the Board while operating under the terms of a testing agreement and be enrolled in a program designed for him by the Winners Foundation. Empirical evidence could be gathered while Romero was operating away from public scrutiny and then reviewed at a future date to determine if it would be in racing's best interest to allow Romero to hold a jockey's license.

ORDER

Hector Romero is deemed eligible to apply for a conditional license as an Exercise Rider. Such license to be valid for a period of one year from the date of issue provided that, prior to the issuance of such license, Romero has agreed to the terms of an approved testing agreement with the California Horse Racing Board and provided that Romero has agreed to abide by any recommendations made by the Winners Foundation concerning the maintenance of his sobriety. Any violation of the terms of the testing agreement with the Board or any violation of the terms recommended by the Winners Foundation or any violations the terms of his court ordered probation shall be grounds for the summary revocation of such conditional license.

At the conclusion of the one year conditional Exercise Rider license Romero would be eligible to apply for a jockey license provided he has not violated the terms of the conditional exercise rider license or the terms of his court ordered probation and with the stipulation that such jockey license application is subject to review by the California Horse Racing Board or its designee.

Dated July 30, 2008


John B. Herbuveaux, Referee for
The California Horse Racing Board